IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 7573 of 2005(B)

PETITIONER:

ELIZEBATH, W/O.JOSEPH, KARIMBUKALAYIL, MANNARKUNU, ATHIRAMPUZHA, KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS:

1. **THE EXECUTIVE ENGINEER, PWD ROADS DIVISION, KOTTAYAM.**
2. **THE ASSISTANT EXECUTIVE ENGINEER, BRIDGES SUB DIVISON, KOTTAYAM.**
3. **K.J.SEBASTIAN @ KOCHU,KULANGOTTIL HOUSE, ARPOOKARA WEST P.O., KOTTAYAM (PRESIDENT, PULIKKUTTYSSERY BRDIGE CONSTRUCTION COMMITEE)**

R3 BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.ABRAHAM GEORGE JACOB
BY SR.GOVERNMENT PLEADER SRI. R.LAKSHMI NARAYANAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 7573 OF 2005-B

JUDGMENT

The petitioner is in possession of 1.23 acres of land in Survey No.417/12 and 417/14 of Aymanam Village, Kottayam district. Now there is a proposal to open a new road cutting across the above said property of the petitioner. The 3rd respondent is the convenor of a committee of the local people formed for opening the road. The petitioner submits, she is not willing to surrender any land. If the Government require land for opening the road, the same may be acquired. So, she seeks a direction to the respondents 1 and 2 not to cut open any road or pathway through her property, except following the due process of law.

2. The learned counsel appearing for the 3rd respondent submitted that the said respondent has nothing to do with the opening of the road. He is a total stranger. He has been unnecessarily impleaded in this writ petition. The real persons concerned with the opening of the road are the local M.L.A., and others, it is submitted.

3. The learned Government Pleader, upon instructions, submitted that the alignment of the road and other technical details are not so far finalised.

There is only a proposal to open a bridge and the road concerned is one leading to the bridge. The learned Government Pleader has made the submissions, relying on the instructions received by him on 21.3.2005. The learned counsel for the petitioner admits that no further action has been taken, so far, in the matter. In view of the above state of facts, the apprehension of the petitioner that the road will be opened through her property illegally, is unfounded. In other words, the writ petition is premature. Accordingly, it is closed without prejudice to the contentions of the petitioner.

10th December, 2007. **K.BALAKRISHNAN NAIR, JUDGE**.

Nm/